

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 10/08/2004

CORAM

THE HONOURABLE MR.JUSTICE A.K.RAJAN

W.P.NO. 10237 of 2002

AND

W.P.M.P.NO. 13829 of 2002

The Secretary,
The Simpson and Group Companies
Employees Co-operative Society,
Perambur High Road,
Chennai-600 012. .. Petitioner

-Vs-

1. The Joint Registrar of
Co-operative Societies
(Chennai Region)/Central
Registrar, TANFED Buildings,
Abhiramapuram,
Chennai-600 018.

2. N.Mulniappan

3. K.r.Palani

4. S.Markandan

5. K.Balaji

6. S.Govindan

7. A.Dhanalakshmi

8. U.Ramachandran .. Respondents

Writ Petition filed under Article 226 of the Constitution of
India praying to issue a Writ of Certiorari to call for the records relating
to the impugned order of the first respondent in Rc.No.211/200 2/C2,
Arbitration Claim No.1/2002 dated 12.2.2002 and quash the same.

!For petitioner : Mr.P.Manojkumar
for Mr.P.Rajendran

^For first respondent : Mr.R.Chandrasekar,
Govt.Advocate.

For respondents 2 to 8: No appearance.

:ORDER

This writ petition has been filed by the petitioner
challenging the order of the Joint Registrar of Co-operative Societies

directing the petitioner to extend all the benefits to the respondents 2 to 8 as extended to the other employees who were in service as on 16.9.1999, with reference to G.O.Ms.No.162, Finance (Pay Cell) Department, dated 13.04.1998 and subsequent G.Os. issued in this regard.

2. The brief facts that is necessary to file this writ petition is as follows:- The respondents 2 to 8 herein were working in the petitioner's co-operative society and they opted for retirement under Special Voluntary Retirement Scheme. The respondents 2 and 3 retired voluntarily from service on 30.6.1999 and 30.4.1999 respectively, respondents 4 and 5 retired voluntarily from service on 30.6.1999, and the respondents 6 to 8 voluntarily retired from service on 30.1.1999, 31.5.1999 and 30.6.1999 respectively. At the time of their voluntary retirement it was specifically stated in the order of retirement that if any pay revision was made subsequently with retrospective effect, such revised pay would not be paid to them. The

respondents 2 to 8 accepted the said condition and retired voluntarily. They received the compensation and other benefits as per the Special Voluntary Retirement Schemes.

3. In September 1999, the board of petitioner's society has passed a resolution to adopt the V Pay Commission Revised Pay Scales to the employees of the society who were in service as on 16.9.1999 with monetary benefit from 1.4.1998. The board specifically stated that the revised scales of pay were applicable only to those employees who were in service as on 16.9.1999.

4. The respondents 2 to 8 filed an Arbitration Claim Petition before the first respondent claiming that they should be allowed the revised scales of pay till the date of their voluntary retirement, since they were in service as on 1.1.1996. The Arbitration Claim Petition was disposed of with a direction to the petitioner to reconsider the claim of the respondents 2 to 8. Accordingly, the respondents 2 to 8 herein made representations to the petitioner and they were rejected by the petitioner herein. Against which, the respondents 2 to 8 herein filed a Writ petition in W.P.No.8540 of 2001 and this Court by order dated 26.4.2001 dismissed the said writ petition with a direction to the petitioner to reexamine the request of the respondents 2 to 8. Accordingly, petitioner has reexamined the request of the respondents 2 to 8 and issued a detailed order rejecting their claim. Against which the respondents 2 to 8 filed another writ petition in W.P. No.23581 of 2001. This Court while dismissing the said writ petition has directed the respondents 2 to 8 to raise a dispute under Section 74 of the Multi State Co-operative Societies Act, 1984. Thereafter the respondents 2 to 8 raised an Arbitration Claim before the first respondent. The first respondent by order dated 12.2.2002 in Rc.No.211/2002/C2 has passed the impugned order directing the petitioner society to extend all the benefits to the respondents 2 to 8 as extended to the other employees who were in service as on 16.9.1999 with reference to G.O.Ms.No.162 Finance (Pay Cell) Department, dated 13.4.1998 and pay the terminal benefits within a period of two weeks from the date of receipt of the said order. Aggrieved by the said order, the petitioner has come forward to file this Writ Petition.

5. The learned counsel for the petitioner contended that since the respondents 2 to 8 voluntarily retired from service in between January 1999 to June 1999 and received the compensation and other benefits in full and final settlement of all their claims, and accepted the condition that any subsequent revision of pay scales retrospective effect would not be applicable to them, they are not entitled to the revised pay on par with the employees of the petitioner society who were in service as on 16.9.1999. In support of the above contention the learned counsel relied upon three judgments of the Supreme Court reported in (i) HINDUSTAN MACHINES TOOLS LTD. v. M.S.KANG/P.N.KASHYAP (199 7)11 Supreme Court Cases 186; (ii) A.K.BINDAL AND ANOTHER v. UNION OF INDIA KAND OTHERS (2003)5 Supreme Court Cases 163; (iii) VICE CHAIRMAN & MANAGING DIRECTOR A.P.S.I.D.C.LTD. & ANR. v. R.VARAPRASAD AND OTHERS (2004(1) ATJ 193). Wherein the Hon'ble Supreme Court has held:

"once employees opt to retire under VRS and accept the benefits thereunder their rights as employees come to an end and thereafter they cannot again assert their rights and re-agitate their claim for pay revision for pre-retirement period."

In view of the decision of the Hon'ble Supreme Court the respondents 2 to 8 are not entitled to the revised scale of pay retrospectively since they were retired from service voluntarily even before the said pay revision. Further they were permitted to retire voluntary with a condition that subsequent to the date of retirement they will not be eligible to claim benefits of scale of pay revised retrospectively. Further, the respondents 2 to 8 have received the compensation and other benefits in full and final settlement of all their claims, and accepted the condition that any subsequent revision of pay scales retrospective effect would not be applicable to them,

they are not entitled to the revised pay on par with the employees of the petitioner society who were in service as on 16.9.1999. Therefore, the impugned order is liable to be quashed.

In the result, this writ petition succeeds and the same is allowed as prayed for. However, in the circumstances of the case, there will be no order as to costs. Consequently, W.P.M.P.No.13829 of 2002.

Index :Yes

Internet:Yes

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To

The Joint Registrar of

Co-operative Societies

(Chennai Region)/Central

Registrar, TANFED Buildings,

Abhiramapuram,

Chennai-600 018.

